THE HON'BLE SRI JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO.8482 OF 2005

Between:

Mohd.Fayyaz Ahmed

……Petitioner

Vs.

The Regional Passport Officer, Kummarguda, Secunderabad.

…….Respondent

Dt.08.09.2005

O R D E R:

The writ petition has been filed by Mohd.Fayyaz Ahmed with a prayer to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the Regional Passport Authority-1st respondent in not considering the date of birth mentioned in the S.S.C. i.e., 11.05.1975 instead of 5.5.1973 as illegal, improper and unjust.

The uncle of the petitioner, namely, one Mohd. Azam got entered his date of birth as 5.5.1973. When he lost his passport, a complaint came to be filed before the Station House Officer, Hayathnagar, Hyderabad. There after, he filed an application for the issuance of duplicate passport. When the authorities did not heed to his request to mention his date of birth in the duplicate passport, basing on the S.S.C. certificate, he approached this Court by filing the writ petition with the relief stated supra.

The learned counsel for the petitioner submits that the date of birth furnished by the

uncle of the petitioner to the passport authorities was not correct and his correct date of birth as per S.S.C. Certificate is 11.05.1975 and thus, an application has been made to the passport authorities to mention the correct date of birth in the duplicate passport and since the authorities did not heed to the request of the petitioner, he approached this Court by invoking jurisdiction under Article 226 of the Constitution of India. He further submits that the case of the petitioner comes under Clause 'a' of the instructions/clarifications issued by the Government of India in the Ministry of External affairs with regard to the change of birth in the passport and therefore, instructions are required to be issued to the respondent to consider his case in accordance with the said guidelines.

As seen from the record, the passport authorities rejected the request of the petitioner on the ground that the case of the petitioner falls under Clause 'c' of the instructions/clarifications issued by the Government of India in the Ministry of External Affairs. At this juncture, it is required to be noted the instructions/clarifications issued by the Government of India, Ministry of External Affairs with regard to the change of date of birth in the passport and they read as under:

a. *Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth in the passport, PIA (Passport issuing authority) may after verifying/satisfying himself, affect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.*

b. *Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the General Clauses Act, 1977, a competent authority issuing a certificate could also make necessary amendments to the same*

c. *Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., school/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., Municipal Authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent Court of jurisdiction, certifying the valid date of birth/place of birth".*

The Regional Passport Authority/respondent rejected the case of the petitioner on the ground that the case of the petitioner falls under Clause 'c' of the instructions/clarifications. It is the specific case of the petitioner that his uncle furnished incorrect date of birth at the time of obtaining the original passport in the year 1990 and therefore, he furnished the correct date of birth basing on the S.S.C. Certificate, requesting the Regional Passport Authority/respondent to issue duplicate passport mentioning the correct date of birth. When the petitioner is seeking correction of date of birth basing on the S.S.C. Certificate, his case is required to be considered either under clause 'a' or 'b' and not clause 'c'.

Therefore, the writ petition is disposed of directing the petitioner to submit a fresh application enclosing the Secondary School Certificate issued by the S.S.C. Board and there upon, the respondent has to consider the said application keeping in view clauses 'a' and 'b' of the instructions/clarifications issued by the Government of India, Ministry of External Affairs, and pass appropriate orders within two months there after. No costs.

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B.SESHASAYANA REDDY J.,

Dt.08.09.2005

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